

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:  
Inventor: Migimatsu  
Application No.: 10/047,374  
Filed: January 14, 2002  
Title: SYSTEM AND METHOD FOR  
TRANSMITTING VOICE  
MESSAGES THROUGH THE  
INTERNET

Confirmation No: 7420  
Group Art Unit: 2416  
Examiner: Jain, Raj K.

**REPLY BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is a Reply Brief to an Examiner's Answer, in support of the appeal to the Board of Patent Appeals and Interferences in the application identified above.

This brief addresses issues raised in the Examiner's Answer mailed on April 16, 2010.

## REMARKS

In the Examiner's Answer, the Examiner asserts that the specification is silent with respect to a "complete caller communication." The Examiner indicates that it is "it is not fully clear ... how this is to be properly interpreted." [Examiner's Answer at 8]

To the contrary, as the Applicant has pointed out in the Appeal Brief, a complete caller communication is described clearly and repeatedly in the specification, which refers to voice mail and to voice mail messages. The specification distinguishes real-time voice communication from voice mail based communication. As such, it would be clear to one of skill in the art that a "complete caller communication" includes a voice mail message. The phrase "complete caller communication" is a more precise way to refer to a voice mail message and as such more clearly defines the claims, and therefore is a preferably way to recite the claimed subject matter.

Because the term "message" is used in the art a variety of contexts, and to more clearly distinguish real-time voice communication (e.g. a single packet of real-time voice communication is clearly not a complete caller communication, but a packet is sometimes referred to as a message), the term "complete caller communication" is a preferable way to make this clear. Ignoring this plain language distinction, the Examiner applies real-time streaming of voice communication to the claims at issue. In particular, embodiments in which remote access to a complete caller communication is disclosed by streaming data over a network while it is being played back is clearly distinct from the present claims in which transmission of a complete caller communication occurs after recording and before playback. By reciting that a complete caller communication is completely received prior to playback (e.g. as opposed to a single packet of voice), this distinction is made clear.

Conceptually, a complete caller communication is well supported by the specification and would be clearly understood by one of skill in the art at the time of the invention. In fact, later in the Examiner's Answer, the Examiner states that Gordon discloses a complete caller communication by indicating that "Gordon explicitly

discloses that a complete call (emphasis added) or messaging is performed prior to transmission ...” [Examiner’s Answer at 10]

The Examiner asserts that “Applicant contends Gordon fails to disclose “transmission of voice messages over a network” rather “messages are confined to a central repository.” [Examiner’s Answer at 9]

The Examiner misstates the Applicant and takes the Applicant’s arguments in the Appeal Brief out of context. The Applicant noted that there are multiple embodiments disclosed in Gordon and in some of those embodiments messages are recorded and played back from a central repository. These embodiments of Gordon transmit real-time voice over a network (to record and to play back), but do not transmit a complete caller communication after recording and before playback, as recited in the claims. The portions of the specification cited by the Examiner in support of the statement above relate to real-time voice communication (and not transmission of voice messages after recording and before playback), or to other embodiments of Gordon related to remote message retrieval (which are discussed in other portions of the Appeal Brief).

The Examiner asserts that “Applicant further contends that Gordon fails to disclose “transmission of voice messages responsive to the sender of the message” and then cites to portions of Gordon. [Examiner’s Answer at 9]

The Examiner refers to disclosure in Gordon in which an alert notifies a recipient of a message, which may then trigger a retrieval of that message. Such a mechanism does not disclose the recited feature of transmission responsive to the sender of the message. In Gordon, the message is only transmitted after the equipment of the receiver calls in and requests transmission of the message. Thus the transmission of the message over the network is dependent upon the recipient of the message requesting transmission of that message.

The Examiner asserts that “Applicant further contends “Messages are not ‘pushed’ over a network based on the actions of the caller, or the sender of the

message. This contention is moot, as the subject claims fail to require any messaging being 'pushed' over the network." [Examiner's Answer at 9]

To the contrary, this discussion is clearly related to the previous discussion of the claim language that recites transmission of voice messages responsive to the sender of the message. The Applicant makes clear in section E. of the Appeal Brief the notion that the claims require transmission responsive to the sender and this is described as being "pushed" over the network. That is, unlike embodiments of Gordon, the claims of the present application recite a "push" mechanism in which messages are transmitted responsive to the sender. In Summary, the Examiner has failed to show any disclosure in Gordon in which complete caller communications are recorded, then transmitted over a network responsive to the sender, then played back to the recipient, and these elements are all recited in the claims. [See H. Claims Appendix, independent claims 1 and 4]

Respectfully submitted,

Date: May 12, 2010

By: /Stephen Melvin/

---

Stephen W. Melvin  
Reg. No. 50,467

Zytek Communications Corporation  
One Market Plaza, Spear Tower, Suite 3600  
San Francisco, California 94105  
Voice: (415) 738-8734  
Facsimile: (415) 843-0561  
Email: melvin@zytek.com